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HIGH COURT OF CHHATTISGARH, BILASPUR

Second Appeal No. 192 of 2006

Single Bench: Hon'ble Shri Justice Dilip Raosaheb Deshmukh, J.

Appellant (Plaintiff)	:	Rajkumar Agrawal, S/o Hariram Agrawal, Aged about 30 years, R/o Sevakunja Road, Raigarh, Dist : Raigarh (C.G.)
		Versus
Respondents (Defendants)	:	1. M.S.Thakur, S/o A.S.Thakur, Aged about 36 years.
	:	2. Jagdish Mishra, S/o Jawal Prasad Mishra, Aged about 58 years,
		1 & 2 are R/o Civil Line, Raigarh (C.G.)
	:	3. Banwarilal Jagatramka, S/o Basant Lal Jagatramaka, Aged about 80 years, R/o Station Road, Raigarh – (C.G.)
	:	4. State of Chhattisgarh, Through – Collector Raigarh – (C.G.)

Shri Amit Sharma, Counsel for the appellant/plaintiff.
Shri Akhil Agrawal, P.L. for the State/respondent No.4.

JUDGMENT
(Passed on 28.03.2007)

Heard on admission.

2. The appellant/plaintiff has assailed the impugned judgment and decree dated 31st January 2006 in Civil Appeal No. 16-A of 2004 by 1st Additional District Judge, Raigarh whereby the judgment and decree dated 30.06.2004 passed in Civil Suit No. 101-A of 2004 by the Addl. Civil Judge Class-1, Raigarh was set aside. The finding recorded by the learned lower Court that the plaintiff was entitled to issuance of *patta* over the suit land in his favour and to a permanent injunction against the defendants No.2 to 4 was reversed.

3. The plaintiff's suit was instituted on 10.12.1993 and based on adverse possession. However, the plaintiff admitted in paragraph 1 of his testimony that he was in possession of the suit land from 1983. So far as

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the sale deed executed in favour of the father of the plaintiff is concerned, it was also admitted by the plaintiff in paragraph 6 of the testimony that the land purchased by his father is not the suit land. Both the Courts below have recorded a concurrent finding that the plaintiff had failed to prove adverse possession against the State on the suit land. During the course of argument, the learned counsel for the appellant failed to demonstrate how the plaintiff was in adverse possession of the suit land. The argument that the Patwari had recommended to the Collector for issuance of *patta* of the suit land in favour of the plaintiff could not help the plaintiff in any manner. In this view of the matter, the first appellate Court was wholly justified in allowing the appeal while reversing the finding recorded by the trial Court that the plaintiff was entitled to issuance of *patta* of the suit land in his favour and also to a permanent injunction against the defendants No.2 to 4 from interfering with the possession in the suit land.

4. Thus, in view of the concurrent finding of fact recorded by both the Courts below having been based on proper appreciation of oral as well as documentary evidence, no substantial question of law arises for determination in this appeal.

5. This appeal being devoid of merit is dismissed. There shall be no order as to costs.

M.C.P.No.749 of 2006 for stay also stands dismissed.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Anjani